

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TALKING RAIN BEVERAGE
COMPANY, INC.

Plaintiff,

v.

COTT CORPORATION and COTT
BEVERAGES INC.,

Defendants.

No. 2:12-cv-01727

**STIPULATION AND ORDER
REGARDING CASE DEADLINES**

STIPULATION

On October 5, 2012, plaintiff filed this action against Cott Beverages Inc. ("Cott Beverages") and Cott Corporation alleging claims for trademark and trade dress infringement involving a Cott Beverages product called "Clear Choice ice." The allegations of the Complaint were based on Plaintiff's information and belief concerning the appearance of the label for the Clear Choice ice product, which at the time was not yet being sold in retail outlets. Subsequent to the filing of the Complaint, plaintiff was informed by Cott Beverages that the label design for the product Cott has begun to sell, is not the same as the label design discussed in the Complaint. In light of this new information, plaintiff desires time to investigate the relevant facts and determine whether to dismiss the action or file an amended complaint. In addition, plaintiff has agreed to dismiss Cott Corporation from this action without prejudice.

1 The parties therefore agree that good cause exists and the interests of justice will be
2 served and this Court's resources will be preserved by staying this action for 60 days. The
3 parties stipulate to entry of an order as follows:

4 1. This action is stayed in its entirety for 60 days from December 5, 2012, during
5 which time Cott Beverages shall have no obligation to respond to the pending Complaint. If
6 plaintiff has not dismissed the action or filed an Amended Complaint by the expiration of that
7 period, Cott Beverages shall respond to the pending Complaint within 10 days thereafter. If
8 plaintiff files an amended complaint within the 60-day period, Cott Beverages shall respond to
9 the Amended Complaint within 14 days of its filing.

10 2. The deadlines imposed by the Court's Order Regarding Initial Disclosures, Joint
11 Status Report, and Early Settlement shall be extended as follows:

Deadline for FRCP 26(f) Conference	12/3/12	2/11/13
Initial Disclosures Pursuant to FRCP 26(a)(1)	12/10/12	2/19/13
Combined Joint Status Report and Discovery Plan as Required by FRCP 26(f) and Local Rule CR 16	12/17/12	2/25/13

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18 3. Cott Corporation is dismissed from this action without prejudice.
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Respectfully submitted this 5th day of December, 2012.

s/ Michael D. Hunsinger

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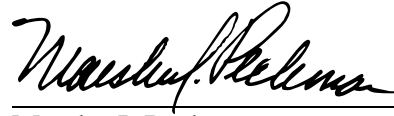
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Attorneys for Cott Beverages, Inc.

ORDER

IT IS SO ORDERED.

Dated this 8th day of December, 2012.



Marsha J. Pechman
Chief United States District Judge